

Flintshire County Council

Environmental Enforcement Policy

*Managing the local Environment Well*

# Background

Flintshire County Council and its Statutory Partners have a responsibility to keep our streets clean, to collect refuse, maintain and improve the quality of our public spaces and take action against those who act in a way to affect these.

Our environment influences our quality of life and also impacts on our experience whether living, visiting or working within the County.

Whilst Flintshire County Council has a responsibility for maintaining a clean environment for all, our community also has an integral role and this policy recognises the need for partnership working in order to achieve a safer, cleaner and greener County.

Enforcement plays a vital role in maintaining a clean and safe environment by providing information and advice to individuals regarding their rights and citizenship duties. Where individuals and/or businesses fail to recognise and change their negative behaviour, enforcement ensures that they are made accountable for their actions through legislative processes.

The Clean Neighbourhoods and Environment Act 2005 saw the introduction of new powers for Local Authorities to help tackle environmental crime. The Act introduced effective powers and tools to tackle poor environmental quality and antisocial behaviour such as litter, graffiti, waste and dog control. This policy sets out how we will use our powers alongside our current enforcement work to ensure an effective, clearer and consistent approach to environmental crime across Flintshire.

# **Aim and Objective**

## **Our aim is to improve Flintshire's local environmental quality by reducing environmental crime across the County**

To meet this aim, the policy will seek to achieve the following objectives:

- To raise awareness of good waste management, litter control, dog control, highway obstructions and other local environmental quality issues to everyone across the County
- To educate and work in partnership with residents, businesses and visitors around their role and responsibilities in terms of good waste management, litter control, dog control, highway obstructions and other local environmental quality issues
- To undertake any enforcement action as necessary, in a reasonable, equitable and proportionate manner.
- To take all enforcement decisions in a proportionate manner and strive for high standards of consistency.
- To take all enforcement action without education and advice only when the severity of the situation dictates.

These objectives reflect Flintshire County Council enforcement principles, based upon the Enforcement Concordat. The Concordat states that good enforcement practice should have clear standards, be carried out in an open, helpful manner, have a proportionate and consistent approach and deal effectively with any complaints about the service.

This approach will ensure that:

- Enforcement is carried out in a fair and equitable way;
- We assist business and others in meeting their legal obligations;
- We focus on prevention rather than just cure;
- We take firm action against those that flout the law;
- That all allegations of enforceable offences by delegated officers are properly recorded;

- That the policy underpins other National, Regional and Local strategies such as the Flintshire Green Space Framework Strategy.
- The proper investigation of all offences enforceable within the limits of the statutory requirements of the following statutes that may have been amended from time to time including:-
  - (i) Environmental Protection Act 1990
  - (ii) Refuse Disposal (Amenity) Act 1978
  - (iii) Highways Act 1980
  - (iv) Town and Country Planning Act 1990
  - (v) Anti Social Behaviour Act 2003
  - (vi) Clean Neighbourhoods and Environment Act 2005
  - (vii) Damage by Pests Act 1949
  - (viii) Education Act 1996
  - (ix) Criminal Justice and Police Act 2001
  - (x) Various other Acts relating to Highways and the Environment

More information on our principles and approach to enforcement within Flintshire can be found in the Flintshire County Council Public Protection Enforcement Policy.

This can be found online [www.flintshire.gov.uk/enforcement](http://www.flintshire.gov.uk/enforcement)

## **SCOPE**

This policy sets out the standard and guidance that will be applied by Flintshire Streetscene and Enforcement services acting in their role as regulator and enforcement agency across the range of relevant legal powers and duties.

This policy applies to all waste and local environmental quality issues experienced across Flintshire on both public and private land. These issues affect the environmental, social and economic well being of our County and have a major impact on the quality of life of those who live, work or visit.

All of the issues highlighted in this Policy are of great importance in creating and maintaining a clean and safe Flintshire. We seek, however, to prioritise work on certain issues to approach enforcement work in a structured way, targeting the most prevalent issues affecting Flintshire's environment.

The current priority areas for the Policy driven by the elements described are;

- Domestic refuse bags dumped on streets outside of collection times
- Commercial waste bags left on streets outside of collection times
- Fly tipping and illegal dumping of waste on public and private land
- Litter in high street areas and other highways
- Graffiti on public infrastructure and in footpath areas
- Irresponsible dog ownership
- Sites detrimental to the amenity of a neighbourhood
- Abandoned Vehicles
- Obstacles / Hazards in the highway and on Rights of Way
- Enforcement within public space addressing issues which reduce our living, working and environmental quality.

## **FOCUS AREAS**

### **Litter**

It is illegal to drop litter. The Environmental Protection Act 1990 (Section 87) states that litter is anything dropped, thrown, left or deposited that causes defacement, in any place open to the air, including litter thrown from the street into a private garden or watercourse. Litter mainly consists of synthetic materials often associated with smoking, eating and drinking, including cigarette butts and chewing gum.

Flintshire County Council provides litter bins at selected busy locations along high streets areas and open spaces across the County. In order to keep Flintshire a clean place, please use these bins for your litter or take it home with you.

We will aim to reduce the level of littering by undertaking general litter education and awareness raising across the County as well as issuing fines.

Where appropriate, authorised officers will use Fixed Penalty Notices (FPNs) to highlight that littering is regarded as unacceptable behaviour in Flintshire and along with other agencies such as North Wales Police, will take a zero tolerance approach.

The distribution of free literature can have a great impact on an area if the printed material is dropped, so creating litter, and by the distribution method leading to possible highway obstructions. Powers in the Clean Neighbourhoods and Environment Act 2005 (CNEA) enable us to introduce a consent system to permit businesses and individuals to distribute free literature in designated areas within the County.

Whilst traders cannot have control over their customers, the items they sell will often end up as litter, or their customers enjoyment of their premises will lead to litter such as cigarette butts at licensed pubs. We aim to work in partnership with business to minimise the impact of litter from shops. The introduction of Street Litter Control Notices will allow us to serve a legal notice on an establishment that contributes to an ongoing litter problem in an area. FPN powers may be used if the conditions of the Notice are breached.

Individuals using commercial premises and contributing to litter (such as smoking outside and discarding cigarette ends on the floor or fast food wrappers) will also be subject to FPN.

Should individuals be witnessed throwing litter from cars, including cigarette ends, officers will note the registration number of the vehicle and the registered keeper of the vehicle will be issued with a FPN for the offence.

A fixed penalty notice may be used as a means of disposing of the offence by means other than prosecution. It is the offender's opportunity to avoid a conviction if they pay in full a penalty instead. Non-payment or partial payment of a penalty notice is generally not an offence in its own right and should a recipient not pay in full the penalty offered within the timescale specified, prosecution may be necessary for the actual offence.

# WASTE

Flintshire is a Waste Collection Authority and has a duty to provide a household waste collection service which it does through its Streetscene Service.

## Residential Waste

Black rubbish bins will be emptied on the same day of the week every fortnight, alternating with the brown garden waste bin.

Food waste will be collected on the same day every week along with the recycling (blue box, blue bag and white sack).

The only change to collection dates will be around the Christmas period (other bank holidays do not affect collections).

Residents are asked to make sure that the wheeled bins are presented at the kerbside with the bin lid closed by 7am on their collection day, to ensure collection. If necessary and if it is safe to do so, bins can be placed out for collection the night before.

All wheeled bins, food containers and recycling boxes/bags must be placed:

1. At the boundary or curtilage of the property with the public highway, without causing obstruction
- or
2. At a designated collection point in the vicinity of the property which will be notified to the resident in advance.

Containers may be placed on the driveway or footpath leading to the property however they must be reachable by the collection teams without the need for them to enter on the property to collect the container. No containers should be presented behind closed gates.

The collection point for householders with long private drives will be the point where their drive meets the road/highway.

In order to ensure that Recycling Targets are achieved, excess or side waste should not be left on collection day. The crew will note the location of any side waste that is presented and report the occurrence to Recycling Officers in order that a visit to the property can be arranged and the resident provided with advice and guidance to prevent reoccurrence. Should this become an on going issue, the Authority may seek to take enforcement action against the property through the use of a Fixed Penalty Notice.

Bulky household items can be disposed of in several ways.

1. By the specific Bulky collection service (charged)
2. At the Councils Household Recycling Centres

Our roadside collection team will be unable to collect these items as part of the normal domestic waste collection service and residents should refrain from putting these out on collection day.

Information on how these items can be collected, as well as other frequently asked questions in relation to residential waste can be found by contacting;

Streetscene contact centre – 01352 701234  
[www.flintshire.gov.uk/streetscene](http://www.flintshire.gov.uk/streetscene)

## **Commercial Waste**

Businesses are under a duty to ensure that their waste is stored, presented and disposed of in accordance with the waste Duty of Care. This duty states that businesses must take all reasonable steps to keep waste safe.

Businesses must be sure that their waste is transferred to a company authorised to take it and who will transport, recycle or dispose of it safely. This transfer of waste must be officially recorded on a waste transfer note. Businesses will receive a waste transfer note from their authorised waste company and this record must be kept and stored by the business, for 2 years and must be produced if asked by an authorised officer.

If you transport waste as part of your business or otherwise for profit, you must register with Natural Resources Wales (NRW) as a waste carrier, unless you are carrying your own waste and it is not construction or demolition waste. If you are a charity or



voluntary organisation and you collect or transport waste on a professional basis you must also register with the NRW as a waste transporter.

Failure to produce a waste carrier's license can result in a FPN and/or prosecution and seizure of the unregistered vehicle by an authorised enforcement officer.

## **FLY TIPPING**

The mismanagement of waste and waste dumping (fly tipping) degrades the amenity of an area and often attracts further environmental crimes.

Through the action of this Policy, we will educate and advise the community on how to properly manage their waste. We will use all relevant legislation at our disposal to prosecute those who fail to act on this education and advice.

Through linking the illegal disposal of waste (residential or commercial) back to a resident or company, Flintshire County Council will ensure that those dumping their waste on public or private land are prosecuted and that any clean up costs are recovered from the offender.

The Council proactively use CCTV in known problem areas to identify offenders and this will be used in evidence on detection of illegal tipping.

Section 33 of the Environmental Protection Act 1990 provides that:

*S33 – (8) ... a person who commits an offence under this section shall be liable*

- (a) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding £20,000 or both; and*
- (b) on conviction or indictment, to imprisonment for a term not exceeding two years or a fine or both*

Should a Flintshire resident be found disposing of their waste illegally (i.e. not at a designated Household Waste Recycling Site), the following actions will be taken;

- The offence will be investigated, and the offender will be invoiced for the cost of removing the waste. They will also be informed of the location of Household Waste Recycling Sites where waste can be disposed of safely and legally.
- An invitation to attend an interview under Caution and subsequent legal proceedings will be considered dependent upon the seriousness of the offence and all related circumstances e.g. persistent offenders
- If the waste is in anyway harmful, then the information related to the case will be passed to Natural Resources Wales for consideration for prosecution

In appropriate cases involving criminal enterprise, an application may be made under the Proceeds of Crime Act for confiscation of assets to recover the financial benefit that the offender has obtained from a criminal conduct. Proceedings are carried out in accordance with the civil standard of proof and applications are made after a conviction has been secured but before the offender has been sentenced.

## **GRAFFITI**

Graffiti is aesthetically unsightly and is criminal damage. In Flintshire, the problem is most prominent in housing and retail areas, and clearing it from public land creates a large cost for the Council.

We will remove any racist or offensive graffiti on public buildings or property within 6 hours of it being reported and all other graffiti on public buildings or property within 48 hours of the report. Council officers do not have the authority to enter private land unless permission is granted by the owner.

*Part 6 of the Anti Social Behaviour Act 2003 allows a local authority officer to issue a fixed penalty notice in relation to minor graffiti, to require, by notice, statutory undertakers, such as railways and port authorities, to remove graffiti, and to prevent the sale of paint sprays to anybody under 16.*

If any person is found to be damaging any property with any form of graffiti then Flintshire County Council will take the following action;

- A fixed penalty notice will be issued by an authorised enforcement officer.

Where buildings owned by statutory undertakers are subject to graffiti, the Council will;

- Serve a notice requiring the graffiti to be removed within 28 days, after which time we will remove the graffiti and reclaim our costs.

In order to regulate the sale of spray paints to under 16's

- The Council will consider the institution of legal proceedings against anyone selling spray paints to under 16's.

A fixed penalty notice may be used as a means of disposing of the offence by means other than prosecution. It is the offender's opportunity to avoid a conviction if they pay in full a penalty instead. Non-payment or partial payment of a penalty notice is generally not an offence in its own right and should a recipient not pay in full the penalty offered within the timescale specified, prosecution may be necessary for the actual offence.

## **ADVERTISEMENTS**

### **General:**

The display of all types of advertisements can cause commercial and living areas within Flintshire to look cluttered, dirty and unkempt.

All advertisements should be displayed in accordance with the Town and Country Planning (Control of Advertisement) Regulations 1994. These regulations provide the framework for controlling the display of all types of advertisements. Advertisements include: posters and notices; placards and boards; fascia signs and projecting signs; pole signs and canopy signs; models and devices; advance signs and directional signs; estate agent boards; captive balloon advertisements; flag advertisements; price markers and price displays; traffic signs and town and village name signs.

Section 224 of The Town and Country Planning Act 1990 states that;

- (1) Regulations under section 220 may make provisions for Enabling the local planning authority to require –
- (a) The removal of any advertisement which is displayed in contravention of the regulations, or
  - (b) The discontinuance of the use for the display of advertisements of any site which is being used in contravention of the regulations
- (2) For that purpose the regulations may apply any of the provisions of Part VII with respect to enforcement notices or the provision of sections 186 subject to such adaptations and modifications as may be specified in the regulations
- (3) Without prejudice to any provision included in such regulations by virtue of subsections (1) or (2), if any person displays an advertisement in contravention of the regulations he shall be guilty of an offence and liable on conviction to a fine of such amount as may be prescribed, not exceeding level 3 on the standard scale and, in the case of a continuing offence, £100 for each day during which the offence continues after conviction.

The Highways Act 1980 required that all advertisements displayed on the public highway require the consent of the Highway Authority. The display of such advertisements without the appropriate consent is an offence under the Highway Act 1980.

The Anti-social Behaviour Act 2003 allows a local authority officer to issue a fixed penalty notice in relation to fly posting offences.

### **On Highway Land:**

Where advertisements are displayed on highway land, without the appropriate consent and/or licence, the following actions will be taken:

- If an advertisement has a serious detrimental impact on the environment and/or highway safety, the Council will remove it immediately and invoice the person(s) responsible for and/or benefiting from the advertisement for the costs of removal.

- All other advertisements will be investigated and the person(s) responsible for the display of the said advertisement(s) will be requested to remove them within a specified time period days.
- If they are not removed within that period, the Council will remove them and the person(s) responsible for and/or benefiting from the advertisement will be sent an invoice for the cost.
- A fixed penalty notice will be issued and/or legal proceedings instigated where offenders are uncooperative or are persistent offenders

### **On Private Land and/or Buildings:**

Where advertisements are displayed on private land or on a building, without the appropriate consent the following action will be taken:

- If an advertisement has a serious detrimental impact on the environment, affects the character of a listed building or is detrimental to highway safety; the Council will request the removal of the advertisement immediately or within a specified time period.
- All other advertisements will be investigated and the person(s) responsible for the display of the said advertisement(s) will be requested to remove them within a specified time period.
- If they are not removed within that period, the Council will instigate legal proceedings against the person(s) responsible for and/or benefiting from the display of the advertisement where offenders are uncooperative or are persistent offenders
- Legal proceedings will be considered on a case by case basis e.g. consideration of particular circumstances and/or persistent offenders

### **DOG FOULING**

Allowing your dog to foul in Flintshire and to subsequently fail to clean up afterwards is an offence. Not only is dog fouling aesthetically unpleasant, it also has the potential to transmit

diseases particularly to young children. All Dog mess should be bagged and placed in a waste bin.

## **School Premises**

Given the health implications that dog fouling can have on the most vulnerable, the Council will enforce dog fouling offences on school premises as nuisance behaviour under Section 547 of the Education Act 1996;

*Any person who without lawful authority is present on school grounds and premises causes or permits nuisance or disturbance may be prosecuted under the Education Act 1996, Section 547.*

Flintshire County Council considers dog fouling as a nuisance and therefore offenders will be;

- Cautioned on site by an authorised officer
- Personal details will be taken
- Legal proceedings will be progressed with a summary conviction of up to £500 fine

There is no fixed penalty notice option for dog fouling on education premises and therefore the Council would encourage residents to check which premises this legislation concerns. All affected sites who have requested enforcement against dog fouling have signs at entry/exit points making residents aware that the legislation is in force.

A full, up to date list of schools whose Governing Bodies have requested enforcement can be found at:

[www.flintshire.gov.uk/dogs](http://www.flintshire.gov.uk/dogs)

## **Public Space**

If a person in charge of a dog is found to be allowing the dog to foul on land which is open to the air and to which the public have access, the following actions will be taken;

- The person in charge of the dog will be issued with a fixed penalty notice by an authorised enforcement officer.
- If the fixed penalty notice is not paid, legal proceedings will be instigated by the Council

- They will also be asked to remove the offending material and given advice on how they should deal with their dog's faeces.
- If a person in charge of a dog is persistently allowing a dog to foul on public land, then they will be investigated further and legal proceedings will be considered.

Anyone in charge of a dog who allows it to foul on land which they believe they have been granted permission to access and permission to allow their dog to foul and not clean it up, will be required to provide proof of such permission from the land owner, following the receipt of a fixed penalty notice from an authorised officer.

## **STRAY DOGS**

A Dog roaming unattended in a public place is deemed to be a 'stray' and the Dog Warden will 'seize' and detain it. Members of the public who find a stray dog are required to either return it to its owner, or take it to the local authority of the area where it was found.

Current legislation requires a dog in a public place to be fitted with a collar and a tag bearing the **name and address of the owner** (Note: a microchip does not meet this statutory requirement). Where a stray dog has a form of identification or the owner of the dog is known, the Dog Warden will serve upon the owner a 'notice of seizure' (ss. 149(3)&(4) EPA). The notice specifies that the dog has been seized, where it is being kept and that it is liable to be disposed of if it is not claimed within seven clear days from the date of the notice. The Council can delegate its duties to collect, detain and dispose of its stray dogs to its kennel operators.

The owner of a stray dog is "not entitled" to the return of the animal until they have paid all the expenses incurred and a further prescribed sum (s.149 (5) EPA). Should the dog not be claimed, or the owner declines to pay the sums outstanding, the ownership of the dog is legally transferred to the Council after seven clear days. The Council is then entitled to sell or re-home the dog (except for the purposes of vivisection) or to have it humanely destroyed.

The Environmental Protection Act specifies that in each case, a dog seized as a stray is required to be detained and a notice of

seizure served upon the owner (where known). In addition, the policy of the Council is that, *on the first occasion* that a dog is seized, the Dog Warden will make all reasonable efforts to identify the owner and return it to them before taking it to kennels; i.e. not incurring any charges. The Dog Warden carries a scanning device to identify dogs fitted with a microchip. If the address of the owner is identified, the Dog Warden will either visit or telephone; if contact is made, the dog will be returned.

A dog will only be returned to an address if there is someone able to receive the dog – it will not be left at an unoccupied property, for example where the owner is out. A dog seized on a second occasion is automatically taken directly to the kennels, thus incurring fees and charges.

Kennelling fees are charged on a daily rate and the cost is subject to review. Fees are payable immediately when the animal is received; therefore a dog held overnight incurs **two** days kennelling costs, plus a Statutory fee. Thus any dog kennelled will **immediately** incur charges (plus any veterinary fees), even if it is only held for a matter of hours and reclaimed the same day.

Stray dogs will only be accepted at the holding kennels during certain pre-agreed times.

Working hours for Dog Wardens will include the period 08.30 hours –17.00 hours (Monday to Fridays). Outside this period all reports of stray dogs and lost dogs should be directed to the Carelink out of hours service, who will contact the Dog Warden on call to arrange collection and transport the dog to the kennels, or advise finder of stray dog of acceptance point where the dog can be taken if the finder so wishes or requests that they take the stray dog, the finder will be told that this is not recommended and should be done at their own risk and free will. The out of hours collection service will operate up to 22.00hrs, after that time advice will be given to the finder of the stray dog. Collection of stray dogs after 22.00hrs will be for emergency calls only.

In circumstances where collection is not possible, finders are advised to either: i) retain the dog until it can be collected (usually next working day), or; ii) return it to the owner if known, iii) take the stray dog to the acceptance point at their own risk and free will. Advice will be given to the finder of the stray dog by the Dog warden on call.



Any reports of stray dogs should be logged with our Streetscene Contact Centre.

## **SITES DETRIMENTAL TO THE AMENITY OF A NEIGHBOURHOOD**

Derelict or unsightly properties can attract acts of anti-social behavior and can be misused. They can also cause neighbourhoods to look unsightly and detrimentally affect property prices in close proximity.

The Town and Country Planning Act 1990 states;

*S215 – (1) If it appears to the local planning authority that the amenity of a part of their area, or an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner or occupier of the land a notice under this section.*

If the condition of a site (land or building) is seriously detrimental to the amenity of a neighbourhood then the following action will be taken;

- A letter will be sent to the owner or occupier to request that the land is brought back to an acceptable standard within a specific timescale
- If no action is taken then a notice will be served upon the owner that will give precise steps to be taken and a timescale in which this is to be completed
- If no action is taken, then the offender will be investigated and legal proceedings will be considered. There is no right to appeal against this form of notice.

## **PUBLIC HEALTH AND STATUTORY NUISANCES**

Properties that are not kept clean and free of rubbish have the potential to become a nuisance to neighbours for example, by attracting vermin or causing an odour.

The Environmental Protection Act 1990 states that;

*S80 –(1) Where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the*

*authority, the local authority shall serve a notice (“an abatement notice”) imposing all or any of the following requirements –*

- (a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;*
- (b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes,*

*and the notice shall specify the time or times within which the requirements of the notice are to be complied with.*

The Prevention of Damage by Pest Act 1949 states that;

4 Power of local authority to require action.

*(1) If in the case of any land it appears to the local authority, whether in consequence of a notice given in respect of the land under the last foregoing section or otherwise, that steps should be taken for the destruction of rats or mice on the land or otherwise for keeping the land free from rats and mice, they may serve on the owner or occupier of the land a notice requiring him to take, within such reasonable period as may be specified in the notice, such reasonable steps for the purpose aforesaid as may be so specified and where the owner of any land is not also the occupier thereof separate notices may be served under this section on the owner and on the occupier.*

*(2) Any such notice may in particular require-*

- (a) The application to the land of any form of treatment specified in the notice;*
- (b) The carrying out on the land of any structural repairs or other works so specified, and may prescribe the times at which any treatment required by the notice is to be carried out.*

If a property is thought to be posing a threat public health or a nuisance then the following action will be taken;

- 1) The owner or occupier will be asked to remove the rubbish or clean the area that is creating the problem.

- They will also be informed of the legislation surrounding the enforcement of public health standards and nuisance.
- 2) If the owner or occupier takes no action within a reasonable timescale, then an abatement notice will be served upon them requiring them to remove or clean the area that is creating the nuisance within a specified time.
  - 3) If the owner or occupier takes no action then the nuisance will be removed by the Council and an invoice will be issued for any costs.
  - 4) Consideration will be given to the instigation of legal proceedings dependant upon the circumstances of each case.

## **DRINKING ALCOHOL IN PUBLIC PLACES**

The whole of Flintshire is covered by a Designated Public Places Order which restricts anti-social drinking in public places.

Signs relating to this are located in various areas of the County.

It is an offence to drink alcohol after being asked not to do so by a Police Officer whilst in a public place.

The Order does not mean that alcohol is banned in public places. A drinker's behaviour will be considered in any action taken by North Wales Police Officers. If you are drinking alcohol sensibly in a public place, you will not be affected.

North Wales Police have the power to ask you to stop drinking alcohol in a public place if in their opinion;

- You are creating disorder or behaving in an anti-social manner when drinking or under the influence of alcohol
- You are likely to behave in an anti-social or disorderly way when drinking or under the influence of alcohol

The action the officer takes will depend on your response to his request. This will vary from your alcohol being seized and disposed of to an arrest and conviction of a public order offence.

Flintshire County Council works in partnership with North Wales Police to ensure we reduce the harm of alcohol on those who live, work in, or visit our County.

## **ABANDONED VEHICLES**

Residents and visitors to Flintshire are encouraged to ensure that vehicles are parked correctly on the highway and have an up to date tax disc to avoid them being mistaken for an abandoned vehicle.

The Refuse Disposal (Amenity) Act 1978 states the following on the Removal of Abandoned Vehicles;

*[...] where it appears to a local authority that a motor vehicle in their area is abandoned without lawful authority on any land in the open air or on any land forming part of a highway, it shall be the duty of the authority to remove the vehicle.*

If a vehicle is reported to be abandoned, then the following actions will be taken;

- DVLA records will be checked in an attempt to find the owner. If this is unsuccessful, then officers are free to enter the vehicle to obtain any documents that may contain details of the owner.
- A 24 hour notice will be served on the vehicle if it is considered to be dangerous. If the owner takes no action, then it will be removed and disposed of or stored dependent upon the circumstances.
- All other vehicles will be served with a 7 day notice requesting the owner to remove it by an authorised enforcement officer.
- If no action has been taken by the owner after 7 days, the vehicle will be removed. A vehicle in good condition can be put forward for sale to reclaim any costs.
- In all circumstances, the previous registered owner (as registered with DVLA) will be issued with an invoice for costs of removal and/or disposal of the vehicle.

## **ABANDONED SUPERMARKET TROLLEYS**

Shopping trolleys, taken from their original site and abandoned in the surrounding communities cause problems in many neighbourhoods in Flintshire. When abandoned, these trolleys have a negative effect on the quality of the local environment and trolleys abandoned in water courses have the further potential to cause blockages which result in a significant flooding risk.

In 2006, amendments made by the Clean Neighbourhoods and Environment Act 2005 have added powers to the Environmental Protection Act 1990 to assist local authorities in reclaiming charges associated with the removal, storage and disposal of trolleys.

The Council has a set standard charge within the legislation, based on the average cost of dealing with abandoned shopping and luggage trolleys in its area. The charge includes administrative costs, such as those arising from the notification requirements, staff time for collection and delivery as well as the cost for storage.

The Council may agree a trolley collection scheme with persons who own shopping or luggage trolleys in its area, and where such an agreement is made, the Council may not charge costs under the Schedule for any trolleys within the scheme that are recovered by it. This arrangement would be subject to regular review and removed if the service failed to meet an acceptable standard.

Should your store provide a trolley for your customers to use and you wish to discuss a trolley collection scheme, please contact the Streetscene Contact Centre.

## **OBSTRUCTIONS ON THE PUBLIC HIGHWAY**

It is illegal to wilfully obstruct the highway as well as any items left in the road, on pavements or overhanging pavements posing a health and safety risk for road users and pedestrians. Examples of obstructions which will be subject to Flintshire County Council enforcement policies are as follows:

Skips, Building Materials and Hoardings

Anyone wishing to place a skip, building materials or a hoarding on the public highway must first obtain a licence. Flintshire County Council issue licences for these purposes, which are governed by a specific set of conditions depending upon the licence required.

Licenses can be obtained by contacting the Streetscene Contact Centre (01352 701234) – Charge applies

### Vegetation Detrimentially Affecting the Public Highway

Where a hedge or tree is, in the opinion of the relevant officer, endangering highway users Flintshire County Council may request the owner, or occupier of the land where the vegetation is growing, to make it safe. This includes vegetation obstructing the carriageway, pavements, signs, street lighting and street furniture as well as vegetation obstructing visibility at junctions or bends over highways authority land.

Owner/occupiers of land adjacent to the public highway are required to maintain their vegetation to ensure adequate highway clearance. A minimum clearance of 2.3m over pedestrian rights of ways and 5.0m over the carriageway must be provided.

In addition Flintshire County Council may require remedial action where trees are considered seriously defective and could potentially fall onto the public highway.

The degree of risk will be carefully assessed before determining what steps, and the timescales involved, are reasonably necessary to remedy vegetation which endangers the safe use of the public highway. In addition when requiring remedial action Flintshire County Council must have regard to protected species (e.g. Birds, Bats) which might make it more appropriate for remedial work to be undertaken at a specific time of the year. To safeguard protected species Flintshire County Council may also recommend that remedial work is carried out in a certain way whilst also fulfilling its statutory obligations under the Highways Act 1980.

Where an owner/occupier does not comply with a request to carry out works and the vegetation remains a danger to highway users Flintshire County Council may serve a formal notice requiring the remedial work to be undertaken within 14 days.

Failure to comply with a formal notice may result in the Council carrying out the work specified in the notice and recovering the expenses reasonably incurred from the person served with the notice.

### Advertising Boards / Signs

Advertising boards are a source of serious obstruction on the public highway as well as being a potential health and safety risk, particularly when these are placed indiscriminately with no pedestrians' concern in mind.

The Council will consider granting advertisement consent and licence applications for placing A Boards in appropriate locations on the public highway. Any non approved items will be dealt with as described in the section dealing with Advertisements earlier in the policy. This is necessary action to maintain a clutter free, safe, local environment.

Prior to the display of any advertisements, advice should be sought from the Streetscene Supervisors as to whether the proposed advertisement is considered to be in a suitable location. If the position is agreed, advertisement consent under the Town and Country Planning (Control of Advertisement) Regulations 1994 should be applied for and if granted, a licence can then be issued by the Streetscene Supervisor.

A charge will apply for both the advertisement consent and the licence to display the advertisement on the public highway.

### Tables and Chairs

Anyone wishing to place tables and chairs on the highway must first obtain a licence. This is to ensure that obstructions to the pavements in our communities are minimised and that we protect the public using them. The licence will state the number of table and chairs permitted, the location and during what hours they are allowed to be placed on the highway.

The approval will be provided by Streetscene Supervisors and a small charge will apply for the initial application.

Any individual or business found obstructing the public highway could be served with a Notice under the Highways Act 1980.

## **OBSTRUCTIONS ON THE HIGHWAY AND RIGHTS OF WAY NETWORK**

### Rights of Way

Rights of way provide the ability for those who live or visit our County to enjoy and access our great views and walks.

Obstructions to our rights of way networks prevent those who are entitled to access land, as well as at times put their health and safety at risk.

The preferred method of dealing with an obstruction will be by liaison with the person having control over it. Where their co-operation cannot be obtained, a notice under section 143 of the Highways Act 1980 will be served, which will require the removal of the obstruction within one month.

Failure to comply will result in the Council's removing the obstruction and recovering its costs in so doing from the person having control of the obstruction

### **Mud or other obstruction on the Public Highway**

Given Flintshire's rural and industrial locations, there will be instances where agricultural as well as commercial vehicles will cause a nuisance as well as danger to other road users when spills or mud from tyres is left on the highway.

All reports of this nature will be investigated by staff from the Streetscene service. Every site will be assessed to evaluate the immediate risk to road users. Should the incident constitute an immediate risk to the health and safety of the highway immediate action will be taken to remediate the problem and return the highway to its original condition.

The waste carrier or road user found to have caused the problem, will be invoiced for the cost of the additional clean up.



In cases which do not justify immediate intervention the individual or company whose actions have caused the incident will be served notice to make good the highway.

Failure to comply with the timescales within the notice will result in Streetscene undertaking the clean up and recharging for the remediation work.

## **PARKING**

The Council is currently responsible for managing parking within Council owned car parks in Flintshire. If you are found to be in breach of the parking regulations, you will receive a parking fine (Penalty Charge Notice) on the windscreen of your vehicle.

From 1<sup>st</sup> October 2013, Flintshire will take over responsibility from North Wales Police for managing on and off street car parking across the County.

If you park correctly, this change will not affect you.

The Police will still issue Fixed Penalty Notices to vehicles causing obstructions on the highway. All other parking, loading and waiting offences will come under the remit of the Council's enforcement officers.

The parking enforcement arrangement is not about raising revenue. There are a number of reasons why the new regime has been introduced, all of which benefit people living in, working in and visiting the County.

- Encouraging safe and sensible parking
- Improve safety for pedestrians and drivers
- Improve general flow of traffic and journey times through the County
- Prevent emergency and public service vehicles from finding their routes blocked
- Improve the general environment
- Free the police to concentrate their resources on issues felt by the public to be more directly their responsibility.

It is your responsibility to park your vehicle correctly. Details of how to pay your Penalty Charge Notice will be shown on the back of the PCN.

The Wales Penalty Processing Partnership is responsible for processing parking fines and you can access their website through the Council's link as well as access details on restrictions and levels of offences:

[www.flinthsire.gov.uk/parking](http://www.flinthsire.gov.uk/parking)

**Or via telephone 0845 6056556**

## **APPLICATION OF THE ENFORCEMENT POLICY**

- All age groups will be approached through the work and corrective action within this policy; however Fixed Penalty Notices will only be issued to persons aged above the age of sixteen. Offenders below this age will have details logged, and parents/guardians will be contacted to tackle unacceptable actions within the community.
- Payment of FPNs by instalments will not normally be accepted. Instalments will only be allowed where demonstrable hardship can be proven and prosecution is likely to result in a conditional/absolute discharge.
- Non payment of FPNs / invoices for work in default will result in legal proceedings being instigated by the Authority against the named individual.
- If enforcement action results in interference with the human rights of an individual, then the Council must be satisfied that the interference is necessary and proportionate to what it seeks to achieve. Any covert surveillance requires approval through the Regulation of Investigatory Powers Act (RIPA) 2000..
- The standard approach and application of enforcement will be followed in addition to the above point as explained in the Public Protection Enforcement Policy 2012 which covers residents and businesses in Flintshire.

- It is the Council's approach to take a zero tolerance approach to environmental crime and to apply the maximum penalty appropriate in each case.
- The enforcement of the law will be accompanied by an education and information campaign.

Further information and advice should be sought from our Streetscene Contact Centre or via the Flintshire County Council website

01352 701234

[www.flintshire.gov.uk](http://www.flintshire.gov.uk)

### Environment Enforcement Protocols

Type	Action	Escalation	Dept
Littering Offences	Immediate issue of FPN	Prosecution if penalty unpaid	FCC Authorised Officers / North Wales Police
Dog Fouling – Public Open Space	Immediate issue of FPN	Prosecution if penalty unpaid	FCC Authorised Officers / North Wales Police
Dog Fouling – School Premises	PACE interview and court file prepared	Prosecution where sufficient evidence exists	FCC Authorised Officers / North Wales Police
Stray Dogs	Payment of kennelling, vets fees and standard charge before release of dog	Failure to pay, or claim dog within 7 days will result in the dog transferring into the ownership of the Authority	FCC Dog Warden
Fly tipping (Minor incident)	PACE interview followed by issue of FPN	Prosecution if penalty unpaid	FCC Authorised Officers
Fly tipping (significant incident)	PACE interview and court file prepared	Prosecution where sufficient evidence exists	FCC Authorised Officers / Natural Resources Wales

<b>Type</b>	<b>Action</b>	<b>Escalation</b>	<b>Dept</b>
Statutory Public Health Nuisances	Compliance reached to resolve problem	Improvement or abatement notice issued Prosecution where sufficient evidence exists	FCC Authorised Officers
Drinking alcohol in public places	Confiscation of alcohol based on each individual circumstance	You may be arrested and convicted of a public order offence	North Wales Police
Side Waste	Issue warning and education	FPN issued Prosecution where failure to comply with an FPN is demonstrable	FCC Authorised Officers
Commercial Waste	Issue of FPN for failure to produce waste carrier licence and/or prosecution and seizure of vehicle	Prosecution and seizure of vehicle	Natural Resources Wales
Graffiti	Immediate issue of FPN	Prosecution if penalty unpaid	FCC Authorised Officers / North Wales Police
Advertisements	Immediate issue of FPN  Removal of posting from Council Buildings	Prosecution if penalty unpaid  Removal of posting by Council - Remedial work charged to fly poster.	FCC Authorised Officers - Planning  Streetscene
Civil Parking Enforcement	Immediate issue of FPN	Prosecution if penalty unpaid	Parking
Abandoned Vehicles	Notice placed on vehicle requested movement within 7 days	Removal of vehicle – costs of recovery through scrap value	FCC Authorised Officers
Abandoned Trolleys	Collection of trolley and stored for statutory timescale	Trolley owner charged for return	FCC Authorised Officers / Streetscene

Type	Action	Escalation	Dept
Advertising Boards/A Frames and signs	Removed immediately should no licence be in place	Items kept for 7 days before disposal	FCC Authorised Officers / Streetscene / Planning
Skips, building materials and hoarding	Removal as soon as possible should licence not be in place		Streetscene / Planning
Tables and Chairs	Removed immediately should no licence be in place	Items kept for 7 days before disposal	Streetscene / Planning
Overgrown hedges*	Issue request to carry out remedial work to resident or land owner Appendix 2A	1.Issue formal warning after 14 days 2.FCC to complete remedial work and recharge if not carried out within 14 days of the end of the formal warning period	Streetscene / Planning
Street lights obstructed by hedges/trees	Issue request to carry out remedial work to resident or land owner Appendix 2A	1.Issue formal warning after 7 days 2. FCC to complete remedial work and recharge if not carried out within 14 days of the end of the formal warning period	Streetscene
Mud on Road	Immediate verbal warning to person responsible  Risk assessment carried out and immediate remedial action taken if necessary. Cost recharged to perpetrator	1.Written warning sent to perpetrator with timescale for remedial action 2. FCC to complete remedial work and recharge if not carried out within appropriate period. (timescale subject to risk assessment)	Streetscene

Type	Action	Escalation	Dept
Dangerous or trees in need of maintenance	Issue request to carry out remedial work to resident or land owner Appendix 2B (subject to risk assessment)	1. Issue formal warning after 7 days  2. FCC to complete remedial work and recharge if not carried out within 14 days of formal warning (or immediate if Risk Assessment requires)	Streetscene / Conservation
Obstruction to public right of way (footpath/bridleway)	Issue request to carry out remedial work to resident or land owner Appendix 2C	1. Issue formal warning after 7 days  2. FCC to complete remedial work and recharge if not carried out within 14 days of formal warning (or immediate if Risk Assessment requires)	Rights of Way